IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 1572/2007
(Mole alias Movle Khan Vs. Rajasthan State Mines and Minerals Ltd. & Anr.)

Date of Order : 02/04/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. L.D.Khatri for the petitioner.

BY THE COURT:-

By the instant writ petition under Article 226 and 227 of the Constitution of India, the petitioner has challenged the Award Annex.9 dated 9.12.2003 passed by respondent No.2 Industrial Dispute Tribunal and Labour Court, Jodhpur (for short 'the Labour Court' hereinafter).

I have heard learned counsel for the petitioner. Carefully gone through the Award Annex.9.

A reference was made to the Labour Court by the Appropriate Government vide order dated 29.8.2000. The terms of the reference reads as under:-

> "Whether the termination of services of Sh. Mole Khan S/o Bhanwaru Khan Ex. Sahayak Karamchari by the mgt. of R.S.M.D.C. Ltd., Jaipur by way of voluntary Retirement Scheme w.e.f. 31.3.1998 is legal and justified and if not to what relief is

workman concerned entitled ?"

Before the Labour Court, the respondent employer established that the petitioner sought voluntary retirement w.e.f. 01.4.1998 and he was granted voluntary retirement and as such he retired on 31.3.1998 Afternoon. The petitioner has not filed any application before the effective date of voluntary retirement for withdrawal of the application seeking voluntary retirement. This fact has been considered by the Labour Court which has not been controverted.

In the circumstances therefore, the Labour Court, in my view, was justified in deciding the reference against the petitioner. If the petitioner himself sought voluntary retirement and has been retired from the effective date and he had not filed any application seeking withdrawn of the voluntary retirement before the effective date of retirement, therefore, no error or illegality can be found in the award passed by the Labour Court.

I do not find any merit in the writ petition. The writ petition is, therefore, dismissed. No order as to costs.

(H.R.PANWAR),J.

rp